UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO

In re:

SHAMASH S. JAFFER,

Debtor.

Case No. 16-11535-j7

MARIA MARTINEZ,

Plaintiff,

v.

Adv. Pro. 16-01054-j

SHAMASH S. JAFFER,

Defendant.

MOTION TO WAIVE FILING FEE

Plaintiff Maria Martinez, by counsel The University of New Mexico School of Law Clinical Law Program (clinical law students Corinne Mack and Alan Heinz, and supervising attorneys John Whitlow and Aliza Organick), for her Motion to Waive Filing Fee, states:

1. The Plaintiff works 25 to 28 hours a week, part-time, at Blake's Lotaburger. *See* attached, Exhibit 1.

2. The Plaintiff is paid minimum wage, $8.75 an hour. *See* attached, Exhibit 1.

3. Before taxes, she makes roughly $245 per week, or approximately $11,769 per year. *See* attached, Exhibit 1.

4. After taxes, she makes roughly $190 per week, or approximately $9,120 per year. *See* attached, Exhibit 1.

5. The Plaintiff supports her son who is in college and lives with her.

6. The 2016 Poverty Guideline for a household of two sets the poverty line at $16,020. *See* U.S. Dept. of Health and Human Serv., Poverty Guidelines (Jan. 25, 2016), https://aspe.hhs.gov/poverty-guidelines.

7. The Plaintiff's monthly expenses total roughly $600, including $350 for rent, $50 for gas, $100 for electricity and $100 for food.

8. The Plaintiff has an outstanding credit card debt with Bank of American for roughly $3,000, which she pays $244 per month.

9. The plaintiff's assets include a 1999 Grand Cherokee and roughly $1,000 in her savings account.

10. The Plaintiff does not expect any major changes in her income, expenses, assets or liabilities during the next year.

11. The Plaintiff has filed a Complaint for Determination of Excepting Debt from Dischargability and to Deny Defendant's Discharge under 11 U.S.C. § 523(a)(2)(A), asserting the Defendant's debt to the Plaintiff for unpaid wages should not be discharged due to misrepresentation.

12. The filing fee for the complaint, to initiate the adversarial proceeding, is $350.00.

13. The Plaintiff requests that the Court, under its authority in 28 U.S.C. § 1930(f), waive the filing fee because she is unable to pay the fee.

14. The Plaintiff total yearly income is less than 150 percent of the poverty line. *See* 28 U.S.C. § 1930(f)

15. In *Boydstun v. Boydstun*, the court held that it has authority under Section 1930 to grant fee waivers if the "creditor [makes] sufficient showing of inability to pay, and a sufficient

showing that her complaint is not frivolous or malicious." No. 12-1298T, 2013 WL 211128, at *2-3 (Bankr. D.N.M. Jan. 18, 2013).

16. In *Boydstun*, the plaintiff was below the poverty line by almost $1,000 a month and had almost no assets. *Id.* at *1.

17. Similarly, Plaintiff Maria Martinez has an inability to pay the filing fee because of her insufficient assets. She is also well below the poverty line for her household size.

18. Additionally, the Plaintiff's allegations in the adversary proceeding are not frivolous or malicious. *See* Complaint for Determination of Excepting Debt from Dischargability and to Deny Defendant's Discharge.

WHEREFORE, Plaintiff respectfully requests the Court enter an order waiving the filing fee of $350.00.

Respectfully submitted,

Corinne Mack
Clinical Law Student
UNM School of Law
Clinical Law Program
MSC11 6070
1 University of New Mexico
Albuquerque, NM 87131-0001
(505) 277-5265

Alan Heinz
Clinical Law Student
UNM School of Law
Clinical Law Program
MSC11 6070
1 University of New Mexico
Albuquerque, NM 87131-0001
(505) 277-5265

Approved by:

John Whitlow
Supervising Attorney

Certificate of Service

I hereby certify that a true and correct copy of the foregoing pleading was served on the parties entitled to notice via the Court's CM/ECF electronic filing system on September 16, 2016, the same date the foregoing was filed.

Corinne Mack
Clinical Law Student

Alan Heinz
Clinical Law Student

Approved by:

John Whitlow
Supervising Attorney

AFFIDAVIT AND VERIFICTION BY MARIA MARTINEZ

STATE OF NEW MEXICO)
)ss.
COUNTY OF BERNALILLO)

I, Maria Martinez, being first duly sworn, and upon my oath depose and state:

1. I have read, know, and understand the contents of the foregoing Motion to Waive Filing Fee.

2. The statements therein are true of my own knowledge.

Maria Martinez

SUBSCRIBED AND SWORN TO before me this 15 day of September, 2016

Notary Public

My Commission expires: June 9, 2020

OFFICIAL SEAL
Roberta Remington
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 6-9-2020